Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
New Part 4 of the Commission's Rules	)	ET Docket No. 04-35
Concerning Disruptions to Communications	)	
	)	

COMMENTS OF TELESAT CANADA

Telesat Canada ("Telesat") is pleased to provide the Federal Communications Commission ("FCC" or the "Commission") with the following comments in the above-captioned Notice of Proposed Rulemaking ("NPRM") proceeding. In this proceeding the Commission is proposing to extend its disruption reporting requirements to wireless, cable and satellite communications providers (i.e., non-wireline communications providers), the latter including non-U.S. licensed satellite operators providing service into the United States. As the Commission is aware, Telesat is a Canadian-licensed satellite operator that is authorized to provide service into the U.S. Indeed, four of five of Telesat's fixed satellite service ("FSS") satellites, namely Anik F1, F2, E2 and E2R, are on the Commission's Permitted Space Station list for C and Ku-band service, with Telesat also authorized to provide Ka-band services into the U.S. market using Anik F2.[1] Telesat operations and reporting requirements may therefore be

[1] *Request to Eliminate Conditions on E1 and E2's Inclusion on the Permitted Space Station List*, Order, DA 01-2051 16 FCC Rcd 15979 (International Bureau, 2001); *Petition for Declaratory Ruling for Inclusion of Anik E2R on the Permitted Space Station List*, SAT-PDR-20030416-00068 (grant stamped June 3, 2003); *Anik F1 Permitted Space Station List Order*, DA 00-2835 (International Bureau, 2000); and *Anik F2 Permitted Space Station List and Ka-band Order*, DA 02-3490 (International Bureau, 2002). In addition, two U.S. Direct Broadcasting Satellite ("DBS") service providers have been authorized by the FCC to access Telesat's Nimiq 1 and Nimiq 2 satellites to provide DBS service within the U.S. (see Digital Broadband Applications Corp., Consolidated Application for Authority to Operate U.S. Earth Stations with a U.S.-Licensed Ku-Band FSS Satellite and Canadian-Licensed Nimiq and Nimiq 2 Satellites to Offer Integrated Two-Way Broadband Video and Data Service Throughout the United States (Call Sign E020010), *Order*, 18 FCC Rcd 9455 (2003), and Pegasus Development Corporation, Consolidated Applications for Authority to Operate one U.S. Transmit/Receive Fixed Earth Station (Call Sign E010320) and 1,000,000 Receive-Only Earth Stations (Call Sign E020022) with the Canadian-Licensed Nimiq 1 and Nimiq 2 Satellites to Offer Direct Broadcast Satellite Service Throughout the United States, *Order*, March 31, 2004. A third U.S. service provider, DIRECTV, has an outstanding request to relocate a spare DBS satellite to another DBS orbital position licensed to Telesat by Industry Canada, and then to take service off of that satellite for a U.S. service. However, it appears that these satellites will not be impacted by the Commission's deliberations and actions in this proceeding, as the Commission has indicated that its proposal "does not include satellites or transponders used ... solely for the one-way distribution of video or audio programming", as would be the case with these satellites.

impacted by any rules ultimately implemented as a result of this proceeding. Accordingly, Telesat has a direct interest in the matters being considered in this proceeding.

Telesat agrees with the Commission that satellite services are playing an increasingly important role in national communications infrastructures, and measures to improve or safeguard the reliability of satellite networks should generally be encouraged in the public interest. However, there are different types of satellite networks (e.g., DBS, FSS and mobile satellite service ("MSS")) providing quite different types of services. For example, MSS is geared to mobile personal communications markets, and this technology has proven itself to be vitally important, if not indispensable, in numerous emergency situations, be they caused by natural phenomenon or security-related events. DBS and FSS satellites are critical components in the delivery of broadcasting services, either directly to the home or to cable or other terrestrial network television facilities. FSS is also strong in providing corporate network services (e.g., VSAT networks), and can play an important role in the provision of certain telephony and paging services, the services which are of particular concern to the Commission in this proceeding. Indeed, as indicated in the NPRM (see paragraphs 42-43), the proposal is to extend the outage reporting requirements to satellites or transponders used to provide telephony and/or paging, and not to satellites or transponders used solely to provide intra-corporate or intra-organizational private telecommunications (i.e., markets largely addressed by FSS satellites) or solely for the one-way distribution of video or audio programming (i.e., markets largely addressed by FSS and DBS satellites).

It should also be noted that to the extent that FSS satellites are involved in telephony and/or paging markets, the satellite operator typically does not deal with end-user customers directly. Rather, the satellite operator generally provides the space segment capacity which may be used in these applications on a private carriage basis to other intermediary service providers (e.g., terrestrial carriers or resellers), who in turn integrate this capacity into their own networks to provide their telephony or paging services to end users on a common carrier basis. In some instances it may also not be possible for the satellite operator to know precisely how the capacity will be used by these service-provider customers, and therefore whether, or to what extent, it will be part of a telephony or paging service.

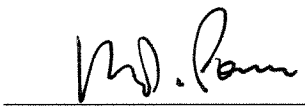
Given the presence of a terrestrial intermediary, the satellite operator may also not be aware of service disruptions impacting end-user customers. Specifically, while the satellite operator would be immediately aware of any failure of the satellite or a transponder, or any earth station equipment it owns or controls, it would not necessarily be aware of a failure of any other service provider's down-stream facilities. Indeed, where there is no question that it was the service provider's down-stream equipment that has failed or been disrupted, that service provider may not even notify the satellite operator that a problem has occurred.

Moreover, the satellite operator would likely have no knowledge of how many end users are impacted, or when the service outage started or service restored. Indeed, even if the root cause of the disruption was a satellite or transponder failure, it would still only be the service provider that would know the full extent of the outage in terms of total number of end users impacted and the duration of the problem.

Because of this likely separation between the FSS satellite operator and the actual provider of the telephony or paging service to end-user customers, and because of the limited knowledge the satellite operator may have as to the number of end users affected by a down-stream outage or the time the outage first occurred or was cleared, imposing the disruption reporting requirement on the satellite operator with respect to these service outages is unlikely to satisfy or further the public interest objectives of such requirements. In Telesat's view, that reporting requirement would most appropriately fall upon the carrier or service provider dealing directly with the end-user customers of these services. Only that service provider will be in position to provide the Commission with the information required to determine the root cause and full extent of the service outage in the timeframes contemplated in NPRM. Telesat therefore recommends that the Commission modify it proposed rules accordingly.

Respectfully submitted,

TELESAT CANADA

By: 

Robert Power
Director, Regulatory & Government Initiatives
1601 Telesat Court
Ottawa, Ontario
Canada K1B 5P4

May 25, 2004